

**SB 373 – Complete The Work Started By The 2007 Legislature When It Enacted SB 532 And Avoid
Illegal Discrimination Against Firefighters Over 34**

(William B. Hanson, Attorney for Central Valley Fire District, February 12, 2009)

2007 Legislature Enacted SB 532

- SB 532 (codified in 19-13-210), permitted rural fire districts with full-paid firefighters to join the Firefighters Unified Retirement System (FURS). The Bill also permitted full-paid firefighters to elect to remain in the Public Employee Retirement System (PERS) or to join FURS. [Exhibit 1, SB 532 - (Final, engrossed version of the bill).]
- Purpose of SB 532 – To revise firefighter retirement laws to put rural fire districts and municipal fire departments on equal footing in recruitment and retention so career firefighters working for rural districts may have same retirement benefits as municipal fire departments. [Audio Recording, House Committee on State Administration, March 23, 2007; Exhibit 2, Minutes, House Committee on State Administration, March 23, 2007; and Exhibit 3, the exhibit submitted by the Public Employees' Retirement Board in support of SB 532.] The proponents of SB 532, as amended, included:
 - Doug Neil, Montana State Firemen's Association
 - The Chiefs of five rural fire districts
 - One firefighter/paramedic for a rural fire district
 - Roxanne Minnehan, Executive Director, Montana Public Employees' Retirement Administration (MPERA)
 - Kurt Bushnell, President, Montana State Fireman's Association
 - Jack Tretheway, Montana State Council of Professional Firefighters
- SB 532 permitted rural fire district firefighters joining FURS to apply their PERS credits to FURS or start fresh in FURS. MPERA said SB 532 was revenue neutral. [Exhibit 4, Excerpt of MPERA's Executive Director's Testimony as a Proponent of SB 532.]

Public Employees' Retirement Board Interpretation of SB 532

- Public Employees' Retirement Board decided the age 34 limit on hiring full-paid firefighters contained in 7-33-4107, which applies only to municipal fire departments, also applied to rural fire districts under current law.
- The Board's decision means many career firefighters working for rural fire districts would not be eligible to join FURS because they were over 34 when they first became full-paid firefighters with a rural fire district, although they met the same physical requirements as those under 34 and became volunteer firefighters for a rural fire district before age 35.

- Under current law, even a full time, paid firefighter in a municipal fire department may continue to work as a firefighter well after his or her 35th birthday as long as the firefighter can perform the essential functions of the job.
- Career firefighters ineligible for FURS would also not be eligible for Social Security benefits if a rural fire district elected to join FURS.
- Rural fire districts are not limited by age in appointing firefighters under current law because 7-33-4107 applies only to municipal fire departments.

Age 34 Is Not A Legitimate "Bona Fide Occupational Qualification" Because Firefighters Over Age 34 Continue To Work As Firefighters All Over Montana And Can Perform The Essential Functions Of The Job

- 7-33-4107 of current law purports to establish age 34 as a "bona fide occupational qualification" for hiring firefighters in municipal fire departments.
- Montana municipal fire departments (eight known) hired 10 full-paid firefighters over age 34 who are also now members of FURS that were not paid firefighters before their 35th birthdays.
- The 54th Legislature passed House Bill 64, as amended, in 1995, and established the public policy of Montana. [Exhibit 5, Montana Legislative History, Chap. 150, Laws 1995.]
- House Bill 64 eliminated the age limit of 35 for hiring police officers.
- House Bill 64 rejected a provision that would have determined age 35 was a "bona fide occupational qualification" for the position of police officer.
- The legislative history of House Bill 64 shows the age limit was eliminated to avoid age discrimination lawsuits.
- The age 34 limit in 7-33-4107 is an unconstitutional denial of equal protection and a violation of Montana's Human Rights Act because there is no rational basis for the distinction, and it is not a legitimate "bona fide occupational qualification."
 - Montana's Human Rights Act contains a BFOQ exception for discrimination based on age. See 49-2-303(1) permitting discrimination in employment because of age "when the reasonable demands of the position" require the distinction. However, the Human Rights Act is equally clear in stating "[t]he exceptions of subsection (1) based on bona fide occupational qualifications must be strictly construed." 49-2-303(2). *Accord Taylor v. Dep. of Fish, Wildlife, & Parks* (1983), 205 Mont. 85, 666 P2d 1228 (Antidiscrimination statutes are very broad prohibitions with very limited exceptions and indicate legislative intent to abolish all discrimination in employment except under the most limited circumstances.).
 - "It is clear, however, from case law that a claim of an adverse impact upon pension and disability plans that would be encountered by hiring 'older'

firefighters cannot justify hiring only those applicants under a particular age." 44 Mont. Op. Atty. Gen. No. 8.

- *Link v. City of Lewistown* (1992), 253 Mont. 451, 833 P.2d 1070, states, "The legislative history of § 7-33-4107, MCA, shows that concern about the retirement and disability system was a key reason for setting a maximum age for original appointment as a firefighter." (emphasis added).

Conclusion

- The Legislature's enactment of SB 532 in 2007 sought to put rural fire districts on more equal footing with municipal fire departments by extending eligibility in FURS to enhance recruitment and retention of full time paid firefighters by rural fire districts.
- The Public Employees' Retirement Board's interpretation of SB 532 results in the literal conclusion that a full-paid firefighter must actually have been hired by a municipal fire department before the firefighter's 35th birthday before going to work for a rural fire district.
- In Central Valley Fire District, all firefighters, volunteer and paid full time, regardless of age, are required to pass an annual physical examination administered by the Montana Fire Firefighter's Testing Consortium, which is the same or substantially the same as that used by municipal fire departments throughout Montana. [Exhibit 6, Affidavit of Brett M. Waters, ¶¶ 16-19, p. 6 of 11.]
- House Bill 64 set sound public policy in 1995 when it rejected age limits on hiring police officers and focused on an applicant's ability to perform the essential functions of the job as tested by a physical examination.
- The public policy of the State of Montana in all cases, except firefighters, is to focus on the individual's ability to do the job. SB 373 fixes that.
- Two different proposed bills in the hopper – SB 372 and SB 373 – are intended to fulfill the original purpose of SB 532, as well as protect the participants in FURS who were over 34 when hired by a municipal fire department as a paid firefighter for the first time.
- The bill before the Committee now – SB 373 – is also intended to eliminate illegal discrimination and focus on a person's ability to do the job, regardless of age.
- Central Valley Fire District supports SB 373 because it is fairest to all Montana residents able to perform the essential functions of the job of firefighter by eliminating an age distinction largely based on concern for the retirement and disability system.
- Central Valley Fire District supports SB 373 because it also protects firefighters who are members of FURS who did not become paid firefighters with a municipal fire department until after their 35th birthday.
- Finally, Central Valley Fire District supports SB 373 because it fulfills the 2007 Legislature's intention to put rural fire districts on par with municipal fire departments in the recruitment and retention of full time, paid firefighters.

Sections

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<u>Tab No.</u>	<u>Title</u>
1	SB 532 (Final engrossed version of the bill), enacted by the 60 th Legislature in 2007
2	Minutes, Montana House of Representatives, 60 th Legislature – Regular Session (See pages 2 of 7 through 3 of 7)
3	Public Employees' Retirement Board, <i>SB 532 – Revise Firefighters' Unified Retirement System Laws</i> (Exhibit 1, March 23, 2007, SB 532), presented by Roxanne M. Minnehan, Executive Director, Montana Public Employees' Retirement Administration
4	Excerpt of MPERA's Executive Director Testimony as a Proponent of SB 532
5	Montana Legislative History, Chapter 150, 1995, HB 64 (Removed age 35 limit on hiring police officers and rejected a provision that would have made age 35 a bona fide occupational qualification for hiring police officers)
6	Affidavit of Brett M. Waters, dated June 19, 2008

SENATE BILL NO. 532

INTRODUCED BY S. GALLUS

A BILL FOR AN ACT ENTITLED: "AN ACT ~~REVISING THE LAWS RELATING TO THE FIREFIGHTERS' UNIFIED RETIREMENT SYSTEM; INCLUDING OVERTIME PAYMENTS IN THE DEFINITION OF COMPENSATION;~~ AUTHORIZING PARTICIPATION IN THE FIREFIGHTERS' UNITED RETIREMENT SYSTEM BY CERTAIN FIRE DEPARTMENTS; AUTHORIZING A RETURN TO SERVICE FOR A LIMITED NUMBER OF HOURS WITHOUT LOSS OF BENEFITS; ~~PROVIDING A DEFERRED RETIREMENT OPTION PLAN;~~ AMENDING SECTIONS ~~19-13-104~~, 19-13-210; AND 19-13-301, ~~AND 19-13-604~~, MCA; AND PROVIDING AN EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

~~Section 1. Section 19-13-104, MCA, is amended to read:~~

~~"19-13-104. Definitions. Unless the context requires otherwise, the following definitions apply in this chapter:~~

~~(1) Any reference to "city" or "town" includes those jurisdictions that, before the effective date of a county-municipal consolidation, were incorporated municipalities, subsequent districts created for urban firefighting services, or the entire county included in the county-municipal consolidation.~~

~~(2) "Compensation" means:~~

~~(a) for a full-paid firefighter, the remuneration paid from funds controlled by an employer in payment for the member's services before any pretax deductions allowed by state and federal law are made;~~

~~(b) for a part-paid firefighter employed by a city of the second class:~~

~~(i) 15% of the regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to a newly confirmed, full-paid firefighter of the city that employs the part-paid firefighter; or~~

~~(ii) if that city does not employ a full-paid firefighter, 15% of the average regular remuneration, excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments in lieu of sick leave, paid on July 1 of each year to all newly confirmed, full-paid firefighters employed by cities of the second class.~~

- 1 ~~—— (c) Compensation for full-paid and part-paid firefighters does not include:~~
2 ~~—— (i) overtime, holiday payments, shift differential payments, compensatory time payments, and payments~~
3 ~~in lieu of sick leave; and~~
4 ~~—— (ii) maintenance, allowances, and expenses.~~
5 ~~—— (3) "Dependent child" means a child of a deceased member who is:~~
6 ~~—— (a) unmarried and under 18 years of age; or~~
7 ~~—— (b) unmarried, under 24 years of age, and attending an accredited postsecondary educational institution~~
8 ~~as a full-time student in anticipation of receiving a certificate or degree.~~
9 ~~—— (4) "Employer" means any city that is of the first or second class or that elects to join this retirement~~
10 ~~system under 19-13-211 or, with respect to firefighters covered in the retirement system pursuant to 19-13-210(2),~~
11 ~~the department of military affairs established in 2-15-1201.~~
12 ~~—— (5) "Firefighter" means a person employed as a full-paid or part-paid firefighter by an employer.~~
13 ~~—— (6) "Full-paid firefighter" means a person appointed by an employer as a firefighter under the standards~~
14 ~~provided in 7-33-4106.~~
15 ~~—— (7) "Highest average compensation" means the monthly compensation of a member averaged over the~~
16 ~~highest consecutive 36 months of the member's active service or, in the event a member has not served at least~~
17 ~~36 consecutive months, the total compensation earned divided by the number of months of service. Lump-sum~~
18 ~~payments for annual leave paid to the member upon termination of employment may be used to replace, on a~~
19 ~~month-for-month basis, the regular compensation for a month or months included in the calculation of highest~~
20 ~~average compensation.~~
21 ~~—— (8) "Minimum retirement date" means the first day of the month coinciding with or immediately following;~~
22 ~~if none coincides, the date on which a member reaches both 50 years of age or older and completes 5 or more~~
23 ~~years of membership service.~~
24 ~~—— (9) "Part-paid firefighter" means a person employed under 7-33-4109 who receives compensation in~~
25 ~~excess of \$300 a year for service as a firefighter.~~
26 ~~—— (10) "Prior plan" means the fire department relief association plan of a city that elects to join the~~
27 ~~retirement system under 19-13-211 or the fire department relief association plan of a city of the first or second~~
28 ~~class.~~
29 ~~—— (11) "Retirement date" means the date on which the first payment of benefits is payable.~~
30 ~~—— (12) "Retirement system" means the firefighters' unified retirement system provided for in this chapter.~~

1 ~~—— (13) "Surviving spouse" means the spouse married to a member at the time of the member's death."~~

2

3 **Section 1.** Section 19-13-210, MCA, is amended to read:

4 **"19-13-210. Participation in retirement system.** (1) Cities of the first and second class that employ
5 full-paid firefighters shall participate in the retirement system. If a city of the first or second class is reduced to a
6 city of the third class or a town under 7-1-4118, it shall continue to participate in the retirement system as long
7 as it has retired firefighters or survivors eligible to receive retirement benefits.

8 (2) Firefighters hired by the Montana air national guard on or after October 1, 2001, or on or after the
9 date of the execution of an agreement between the department of military affairs and the board, whichever is
10 later, shall participate in the retirement system.

11 (3) (a) A city that is not covered under subsection (1) and that has full-paid firefighters covered by the
12 public employees' retirement system and any rural fire district department with full-paid firefighters covered by
13 the public employees' retirement system may elect to be covered under the retirement system as provided in
14 19-13-211.

15 (b) An election by a city fire department or a rural fire department to be covered by the retirement system
16 must be made through adoption of a resolution stating that the governing body of the city or the fire district agrees
17 to be bound by the provisions of the retirement system. The resolution must specify the effective date of the
18 department's election. The provisions of the retirement system become applicable on the effective date specified
19 in the adopted resolution. A certified copy of the resolution must be provided to the board.

20 (4) The following are the terms and conditions of an election by a fire department to join the retirement
21 system pursuant to subsection (3):

22 (a) Each firefighter employed by the fire department before the effective date of the department's election
23 must be given 180 days from the effective date of the department's election to make an individual, one-time,
24 irrevocable election to remain in the public employees' retirement system or to join the retirement system. Failure
25 to make an election under this subsection (4)(a) must be considered an election to remain in the public
26 employees' retirement system.

27 (b) Each firefighter employed by the fire department who is hired on or after the effective date of the
28 department's election must be covered by the retirement system.

29 (c) A firefighter electing to join the retirement system may retain prior service in the public employees'
30 retirement system or qualify the prior service in the retirement system as provided for in 19-2-715."

1

2 **Section 2.** Section 19-13-301, MCA, is amended to read:

3 **"19-13-301. Active membership -- inactive vested member -- inactive nonvested member. (1)**

4 Except as provided in subsection (7), a full-paid firefighter becomes an active member of the retirement system:

5 (a) on the first day of the firefighter's service with an employer;

6 (b) on July 1, 1981, if the firefighter is employed by an employer on that date; or

7 (c) in the case of an employer who elects to join the retirement system, as provided in 19-13-211, on the
8 effective date of the election if the firefighter is employed by the employer on that date.

9 (2) Upon becoming eligible for membership, the firefighter shall complete the forms and furnish any proof
10 required by the board.

11 (3) A part-paid firefighter may elect to become a member of the retirement system by filing a membership
12 application with the board within 6 months of becoming a part-paid firefighter ~~or March 21, 2001, whichever is~~
13 later.

14 (4) An active member becomes an inactive member upon the occurrence of the earliest of the following:

15 (a) the date on which the member ceases service with an employer;

16 (b) the 31st day of an approved absence from active duty with an employer; or

17 (c) the date on which the member ceases to be employed because of a reduction of the number of
18 firefighters in the fire department as provided in 7-33-4125.

19 (5) (a) An inactive member with at least 5 years of membership service is an inactive vested member
20 and retains the right to purchase service credit and to receive a retirement benefit under the provisions of this
21 chapter.

22 (b) If an inactive vested member chooses to take a lump-sum payment rather than a retirement benefit,
23 the lump-sum payment consists of only the member's accumulated contributions and not the employer's
24 contributions.

25 (6) (a) An inactive member with less than 5 years of membership service is an inactive nonvested
26 member and is not eligible for any benefits from the retirement system.

27 (b) An inactive nonvested member is eligible only for a refund of the member's accumulated
28 contributions.

29 (7) (a) A firefighter previously employed in a position covered under the public employees' retirement
30 system and who is first hired into a position covered under the firefighters' unified retirement system after attaining

1 45 years of age may elect to remain in the public employees' retirement system.

2 (b) A firefighter making an election to remain in the public employees' retirement system shall make the
3 election in a manner prescribed by the board within 30 days of being hired into the position otherwise covered
4 under the firefighters' unified retirement system.

5 (8) A retired member who is receiving a service retirement benefit or early retirement benefit may return
6 to employment covered by the retirement system for a period not to exceed 960 480 hours in any calendar year
7 without returning to active service and without any effect to the retiree's retirement benefit."

8
9 ~~Section 4. Section 19-13-604, MCA, is amended to read:~~

10 ~~"19-13-604. State contribution. The state shall make its contributions from the general fund. The~~
11 ~~general fund contributions must be made annually after the end of each fiscal year but no later than November~~
12 ~~4. The board shall notify the state auditor by September 1 of each fiscal year of the annual compensation,~~
13 ~~excluding overtime, holiday payments, shift differential payments, compensatory time payments, and payments~~
14 ~~in lieu of sick leave, paid to all active members during the preceding fiscal year. The state's contribution is 32.61%~~
15 ~~of this total compensation. The contributions are statutorily appropriated, as provided in 17-7-502."~~

16
17 ~~NEW SECTION. Section 5. Short title. [Sections 5 through 12] may be cited as the deferred retirement~~
18 ~~option plan or DROP.~~

19
20 ~~NEW SECTION. Section 6. Definitions. Unless the context requires otherwise, as used in [sections~~
21 ~~5 through 12], the following definitions apply:~~

22 ~~—— (1) "DROP" means the deferred retirement option plan established pursuant to [sections 5 through 12].~~

23 ~~—— (2) "DROP accrual" means the monthly benefit, including any postretirement adjustments, that would~~
24 ~~have been payable had the participant terminated service and retired, multiplied by each month of the DROP~~
25 ~~period that the participant completes, plus interest.~~

26 ~~—— (3) "DROP benefit" means the lump-sum benefit calculated and distributed as provided in [sections 5~~
27 ~~through 12].~~

28 ~~—— (4) "DROP period" means the period of time that a member irrevocably elects to participate in the DROP~~
29 ~~pursuant to [section 8].~~

30 ~~—— (5) "Monthly DROP accrual" means the amount equal to the monthly benefit that would have been~~

1 payable to the participant had the participant terminated service and retired.

2 ~~—— (6) "Participant" means a member of the retirement system who has elected to participate in the DROP~~
3 ~~pursuant to [sections 5 through 12].~~

4
5 ~~—— NEW SECTION. Section 7. Deferred retirement option plan established -- compliance with federal~~
6 ~~law -- rulemaking. (1) The board shall establish a DROP for eligible members of the retirement system who elect~~
7 ~~to participate.~~

8 ~~—— (2) The board shall administer the DROP in compliance with the Internal Revenue Code and the~~
9 ~~applicable rules, regulations, and determinations of the internal revenue service.~~

10 ~~—— (3) The board may adopt rules to administer [sections 5 through 12].~~

11
12 ~~—— NEW SECTION. Section 8. Eligibility -- participation criteria -- membership status -- service~~
13 ~~interruptions. (1) Any member eligible to retire under 19-13-701(1) is eligible and may elect to participate in the~~
14 ~~DROP by filing a one-time irrevocable election with the board on a form prescribed by the board.~~

15 ~~—— (2) A member electing to participate in the DROP shall participate for a minimum of 1 month and may~~
16 ~~not participate for more than 5 years.~~

17 ~~—— (3) A member may participate in the DROP only once.~~

18 ~~—— (4) A participant remains a member of the retirement system, but may not receive membership service~~
19 ~~or service credit in the system for the duration of the member's DROP period.~~

20 ~~—— (5) If participation is interrupted by military service or other temporary absence from work and the~~
21 ~~participant has not received any distribution from the DROP, then the duration of the absence may not be~~
22 ~~included in calculating the DROP period.~~

23 ~~—— (6) Subject to the provisions of this section, a member who was eligible to retire under 19-13-701(1) on~~
24 ~~or after July 1, 2006, but before July 1, 2007, and who elects to participate in the DROP on or before October 1,~~
25 ~~2007, may include within the member's DROP period any time during the period beginning July 1, 2006, and~~
26 ~~ending June 30, 2007.~~

27
28 ~~—— NEW SECTION. Section 9. Retirement system contributions -- benefit payments to individual~~
29 ~~accounts -- investment returns. (1) During a member's participation in the DROP, state contributions under~~
30 ~~19-13-604, employer contributions under 19-13-605, and member contributions under 19-13-601 must continue~~

1 to be made to the retirement system.

2 ~~—— (2) For each DROP participant, the board shall calculate a DROP accrual.~~

3
4 ~~—— NEW SECTION. Section 10. Survivorship benefits. (1) If a participant dies prior to the receipt of the~~
5 ~~DROP benefit pursuant to [section 12], the participant's surviving spouse or dependent child is entitled to receive~~
6 ~~a lump-sum payment equal to the participant's DROP benefit and the member's accumulated contributions minus~~
7 ~~any benefits paid from the member's account, including monthly DROP accruals.~~

8 ~~—— (2) If there is no surviving spouse or dependent child, the designated beneficiary is entitled to receive~~
9 ~~a lump-sum payment equal to the participant's DROP benefit.~~

10 ~~—— (3) The benefit paid pursuant to this section must include interest reflecting the retirement system's~~
11 ~~annual investment earnings from the date the member's DROP period commenced.~~

12
13 ~~—— NEW SECTION. Section 11. Employment and benefits after DROP period. (1) Except as otherwise~~
14 ~~provided in this section, if a member continues employment in a covered position after the DROP period ends,~~
15 ~~the board shall consider the member newly hired as of the date the DROP period ended.~~

16 ~~—— (2) When a member, after the end of the DROP period, continues employment in a covered position,~~
17 ~~state contributions under 19-13-604, employer contributions under 19-13-605, and member contributions under~~
18 ~~19-13-601 must continue to be made to the retirement system.~~

19 ~~—— (3) A member who, after the end of the DROP period, continues employment in a covered position:~~

20 ~~—— (a) is immediately vested for benefits accrued subsequent to the end of the DROP period; and~~

21 ~~—— (b) is, upon terminating service, entitled to:~~

22 ~~—— (i) the member's service retirement benefit earned prior to the DROP period, including any postretirement~~
23 ~~benefit adjustment for which the member is eligible under this chapter;~~

24 ~~—— (ii) a service retirement benefit based on the member's service credit and final average compensation~~
25 ~~during membership subsequent to the end of the DROP period, including any postretirement benefit adjustment~~
26 ~~for which the member is eligible under this chapter; and~~

27 ~~—— (iii) the member's DROP benefit.~~

28
29 ~~—— NEW SECTION. Section 12. Distribution of DROP benefit. (1) Upon termination of service, a~~
30 ~~participant is entitled to:~~

- 1 ~~—— (a) receive a lump-sum distribution of the participant's DROP benefit;~~
2 ~~—— (b) roll the participant's DROP benefit into another eligible retirement plan in a manner prescribed and~~
3 ~~authorized by the board; or~~
4 ~~—— (c) any other distribution or method of payment of the DROP benefit approved by the board.~~
5 ~~—— (2) A distribution pursuant to this section is subject to the provisions of 19-2-907 and 19-2-909 and all~~
6 ~~other applicable provisions of Title 19 and the Internal Revenue Code.~~
7 ~~—— (3) The amount of a distribution, rollover, transfer, or other payment of a DROP benefit pursuant to this~~
8 ~~section must include interest reflecting the retirement system's annual investment earnings from the date the~~
9 ~~member's DROP period commenced.~~

10

11 ~~—— NEW SECTION. Section 13. Codification instruction. [Sections 5 through 12] are intended to be~~
12 ~~codified as an integral part of Title 19, chapter 13, and the provisions of Title 19, chapter 13, apply to [sections~~
13 ~~5 through 12].~~

14

15 NEW SECTION. Section 3. Effective date. [This act] is effective July 1, 2007.

16

17 ~~—— NEW SECTION. Section 15. Retroactive applicability. [Sections 5 through 12] apply retroactively,~~
18 ~~within the meaning of 1-2-109, to active members of the firefighters' unified retirement system who were eligible~~
19 ~~to retire under 19-13-701(1) on or after July 1, 2006, but before July 1, 2007.~~

20

- END -

MINUTES

**MONTANA HOUSE OF REPRESENTATIVES
60th LEGISLATURE - REGULAR SESSION**

COMMITTEE ON STATE ADMINISTRATION

Call to Order: By Chairman Dennis Himmelberger, on March 23,
2007 at 8:00 A.M., in Room 455 Capitol.

ROLL CALL

Members Present:

Rep. Dennis Himmelberger, Chairman (R)
Rep. Duane Ankney, Vice Chairman (R)
Rep. Hal Jacobson, Vice Chairman (D)
Rep. Debby Barrett (R)
Rep. Gary Branae (D)
Rep. Mary Caferro (D)
Rep. Sue Dickenson (D)
Rep. Gordon R. Hendrick (R)
Rep. Teresa Henry (D)
Rep. Dennis Himmelberger (R)
Rep. Pat Ingraham (R)
Rep. William J. Jones (R)
Rep. Bruce Malcolm (R)
Rep. Walter McNutt (R)
Rep. Alan Olson (R)
Rep. Mike Phillips (D)
Rep. Veronica Small-Eastman (D)
Rep. Franke Wilmer (D)

Members Excused: Rep. Scott Sales

Members Absent: None

Staff Present: Dee Barfknecht, Committee Secretary
Sheri Heffelfinger, Legislative Branch

Audio Committees: These minutes are in outline form only. They provide a list of participants and a record of official action taken by the committee. The link to the audio recording of the meeting is available on the Legislative Branch website.

Committee Business Summary:

Hearing: SB 509, SB 517, SB 532, SB 443
Executive Action: None

HEARING ON SB 532

Opening Statement by Sponsor:

00:02:08 Sen. Steven Gallus (D), SD 37, opened the hearing on SB 532, Revise firefighter retirement laws.

Proponents' Testimony:

00:03:55 Doug Neil, Montana State Fireman's Association
00:05:05 William Rash, Chief, Lockwood Rural Fire District, Billings
00:12:17 William Colwell, Operations Chief, Missoula Rural Fire District
00:13:58 Brett Waters, Chief, Bozeman/Belgrade Central Valley Fire District
00:16:14 Greg Orr, Captain, Missoula Rural Fire District
00:17:08 Allan Hutton, Firefighter/Paramedic, Lockwood Rural Fire District, Billings
00:18:59 Jason Revisky, Fire Chief, Gallatin Canyon Consolidated Rural Fire District and Big Sky Fire Department
00:19:42 Roxanne Minnehan, Executive Director, Montana Public Employee Retirement Administration

EXHIBIT(sth62a01)

00:22:30 Kurt Bushnell, President, Montana State Firemans Association
00:23:56 Jack Trethewey, Montana State Council of Professional Firefighters

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses:

00:24:34 Rep. Phillips
00:25:09 Mr. Bushnell
00:25:29 Rep. Phillips
00:25:35 Ms. Minnehan
00:26:06 Rep. Dickenson
00:27:03 Ms. Minnehan
00:28:03 Rep. Dickenson
00:28:09 Ms. Minnehan
00:28:20 Rep. Ingraham
00:29:17 Mr. Neil
00:31:22 Rep. Ingraham
00:31:42 Mr. Neil
00:31:48 Rep. Ingraham

00:32:15 Mr. Neil
00:33:58 Rep. Ingraham
00:34:59 Mr. Neil
00:35:11 Rep. Ingraham
00:35:18 Mr. Waters
00:38:19 Sheri Heffelfinger
00:43:01 Rep. Jacobson
00:44:13 Mr. Rash
00:44:57 Rep. Jacobson
00:45:27 Ms. Heffelfinger
00:47:32 Rep. Ankney
00:48:10 Rep. Barrett
00:48:50 Sen. Gallus
00:49:28 Rep. Barrett
00:49:40 Sen. Gallus
00:50:06 Rep. Ankney
00:50:48 Mr. Waters
00:53:01 Rep. Dickenson
00:53:15 Kim Flatow, Montana Public Employee Retirement
Administration
00:54:44 Ms. Heffelfinger

Closing by Sponsor:

00:55:03 Sen. Gallus
00:57:21 Break
01:04:07 Reconvene

HEARING ON SB 509

Opening Statement by Sponsor:

01:04:15 Sen. Steven Gallus (D), SD 37, opened the hearing on SB 509, Prohibit constituency money in lieu of state funding for services.

Proponents' Testimony:

01:08:14 Linda Gryczan, League of Women Voters
01:09:36 Elizabeth Andrews, Montana Common Cause

Opponents' Testimony: None

Informational Testimony:

01:11:30 Dennis Unsworth, Commissioner of Political Practices

Questions from Committee Members and Responses:

01:13:49 Rep. Jones
01:14:23 Mr. Unsworth
01:14:37 Rep. Jones
01:14:43 Mr. Unsworth
01:14:56 Rep. Jones
01:15:29 Mr. Unsworth
01:15:49 Sen. Gallus
01:17:15 Rep. Branae
01:17:43 Sen. Gallus
01:18:33 Rep. Hendrick
01:18:59 Mr. Unsworth
01:19:54 Rep. Hendrick
01:20:18 Mr. Unsworth
01:22:24 Rep. Hendrick
01:22:59 Mr. Unsworth
01:23:18 Rep. Malcolm
01:23:52 Sen. Gallus
01:24:37 Rep. Malcolm
01:24:58 Sen. Gallus
01:25:36 Rep. Dickenson
01:26:59 Sen. Gallus
01:27:52 Rep. Dickenson
01:28:06 Sen. Gallus
01:28:11 Rep. Dickenson
01:28:18 Mr. Unsworth
01:28:40 Rep. Ingraham
01:29:32 Mr. Unsworth
01:30:07 Sen. Gallus
01:30:36 Rep. Ingraham
01:30:57 Sen. Gallus
01:31:47 Rep. Ingraham
01:32:14 Rep. Phillips
01:32:40 Sen. Gallus
01:33:20 Rep. Phillips
01:34:10 Sen. Gallus
01:34:16 Rep. Caferro
01:34:36 Mr. Unsworth
01:34:59 Rep. caferro
01:35:11 Mr. Unsworth
01:35:58 Rep. Ingraham
01:36:37 Ms. Andrews

Closing by Sponsor:

01:37:26 Sen. Gallus

HEARING ON SB 443

Opening Statement by Sponsor:

01:39:08 Sen. Carolyn Squires (D), SD 48, opened the hearing on SB 443, Revise mailing requirement for address confirmation forms for absentee ballots.

Proponents' Testimony:

01:43:10 Vicki Zeier, Clerk and Recorder Treasurer, Missoula County
01:46:28 Duane Winslow, Election Administrator, Yellowstone County
01:47:56 Elaine Graveley, Election Deputy, Secretary of State's Office
01:48:52 Linda Gryczan, League of Women Voters
01:49:07 Elizabeth Andrews, Montana Common Cause
01:49:35 Siri Smillie, Montana Conservation Voters

Opponents' Testimony: None

Informational Testimony: None

Questions from Committee Members and Responses: None

Closing by Sponsor:

01:50:12 Sen. Squires
01:51:49 Break
02:30:15 Reconvene

HEARING ON SB 517

Opening Statement by Sponsor:

02:30:34 Sen. Jerry Black (R), SD 14, opened the hearing on SB 517, Revise time certain polling places are open.

Proponents' Testimony:

02:35:03 Robert Throssell, Montana Association of Clerk and Recorders
02:36:48 Bonnie Ramey, Jefferson County Clerk and Recorder and Election Administrator

Opponents' Testimony:

02:42:53 Eric Stern, Governor's Office
02:44:43 Beth Brenneman, Attorney, Montana Advocacy Program
02:46:35 Elizabeth Andrews, Montana Common Cause

Informational Testimony: None

Questions from Committee Members and Responses:

02:48:02 Rep. Dickenson
02:49:21 Ms. Ramey
02:49:25 Rep. Wilmer
02:50:05 Sen. Black
02:50:55 Rep. Wilmer
02:52:27 Ms. Ramey
02:52:49 Rep. Barrett
02:52:58 Ms. Brenneman
02:53:04 Rep. Barrett
02:53:11 Ms. Brenneman
02:53:17 Rep. Barrett
02:53:27 Ms. Andrews
02:53:38 Rep. Barrett
02:53:43 Ms. Andrews
02:53:49 Rep. Phillips
02:54:00 Elaine Graveley, Election Deputy, Secretary of State's
Office
02:54:39 Chairman Himmelberger
02:54:46 Rep. Phillips
02:54:51 Sen. Black
02:55:53 Rep. Ingraham
02:56:38 Ms. Graveley
02:57:18 Rep. Ingraham
02:57:37 Ms. Graveley
02:58:06 Rep. Ingraham
02:58:11 Ms. Heffelfinger

Closing by Sponsor:

02:58:42 Sen. Black

Additional Discussion:

03:02:49 Chairman Himmelberger
03:02:55 Rep Olson
03:02:58 Chairman Himmelberger

ADJOURNMENT

03:03:25 Adjournment

REP. DENNIS HIMMELBERGER, Chairman

DEE BARFKNECHT, Secretary

DH/db

Additional Exhibits:

EXHIBIT (sth62aad.pdf)



2007 Legislative Session
House State Administration

March 23, 2007

Roxanne M. Minnehan, Executive Director
Montana Public Employee Retirement Administration

SB532 – Revise Firefighters' Unified Retirement System Laws

The Public Employees' Retirement Board (PERB) originally rose in opposition to this bill. We have worked with the sponsor and the firefighters and have agreed to the amendments and now support the version in front of you today.

This bill proposes two provisions

1. Allows entities other than first and second class cities to join the Firefighters' Unified Retirement System (FURS).
2. Allows retirees to return to work for a fire department on a limited basis.

Allows other Cities to Join the FURS amendment also applies to rural fire districts

- ❖ The PERB supports this provision because new members do not create unfunded liability, if the new members pay the normal cost and the demographics are similar to the current membership.
- ❖ If a current PERS member elects to join the FURS and wishes to transfer PERS service to FURS, the member will pay the actuarial cost for equal service in the FURS.
- ❖ New members can benefit the system because the increased payroll contributes to an increase in contributions above the normal cost which is used to pay off the unfunded actuarial liability.
- ❖ The funded liability remains unchanged. The amortization period is decreased by 2.2 years.
- ❖ The cities pass a resolution to join the FURS.

Working Retirees

- ❖ Members working after retirement take the place of new hires and deprive the system of the member and employer contributions that would be made on the new hires' compensation. Therefore, less contribution income would be available to amortize the unfunded actuarial liability.
- ❖ We have worked with the sponsor and the firefighters to ensure that the amendment limits this provision and the subsequent impact to the system.

We would like to thank Senator Gallus and the members of the Firemen's Association for their cooperation and desire to maintain a healthy, actuarially funded retirement system.

Excerpt of MPERA's Executive Director Testimony as a Proponent of SB 532

As Ms. Roxanne Minnehan said in her testimony in support of the adoption of SB 532 in March 2007, a full time, paid firefighter's election to join FURS is **revenue neutral**. The language of 19-13-210(4)(c), as amended by SB 532, means a full paid firefighter with Public Employee Retirement System (PERS) service desires may "buy in" to FURS.

Ms. Minnehan put it in her testimony before the House Committee on State Administration as follows:

"If [a rural fire district firefighter] want to transfer their PERS service into [FURS], they have to pay the actuarial cost. . . . As you can see the unfunded liability remains unchanged and the amortization period actually decreases with this influx of membership. And the cities will have to pass a resolution to be members of the Firefighters Unified Retirement System, and as you heard from previous testimony it is a benefit for them to do so."

[Source: Audio Recording, House Committee on State Administration, 00:19:42-00:22:30, March 23, 2007.]

MONTANA LEGISLATIVE HISTORY

Chapter 150 1995

Bill H 64 S _____

Original bill & history ✓c

H. Committee on Judiciary

Hearing Date(s) 2/06 ✓ c

_____ c

_____ c

_____ c

Date Out _____ c

S. Committee on Judiciary

Hearing Date(s) 3/07 ✓ c

_____ c

_____ c

_____ c

Did this bill originate in an interim committee? _____ Yes _____ No

Committee _____

Report _____

FINAL STATUS

242

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63 35

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ED 29 21

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FEER FIREFIGHTERS' COMPENSATION

OYEES' RETIREMENT BOARD

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MINISTRATION

L CONCURRED AS AMENDED

ID 50 0
ID 42 0

243

HOUSE BILLS AND RESOLUTIONS

HB 65

3/07 RETURNED TO HOUSE WITH AMENDMENTS
3/08 2ND READING AMENDMENTS CONCURRED 95 4
3/11 3RD READING AMENDMENTS CONCURRED 96 3
3/15 SIGNED BY SPEAKER
3/17 SIGNED BY PRESIDENT
3/21 TRANSMITTED TO GOVERNOR
SIGNED BY GOVERNOR
CHAPTER NUMBER 175
EFFECTIVE DATE: 07/01/95

HB 64

INTRODUCED BY EWER

REVISE QUALIFICATIONS FOR POLICE OFFICERS

12/29 INTRODUCED
1/02 FIRST READING
1/02 REFERRED TO JUDICIARY
2/06 HEARING
2/08 COMMITTEE REPORT—BILL PASSED AS AMENDED
2/09 2ND READING PASSED 87 6
2/10 3RD READING PASSED 96 42/20 TRANSMITTED TO SENATE
2/20 FIRST READING
3/07 REFERRED TO JUDICIARY
3/08 HEARING
3/10 COMMITTEE REPORT—BILL CONCURRED
3/11 2ND READING CONCURRED 43 0
3RD READING CONCURRED 39 03/13 RETURNED TO HOUSE
3/14 SIGNED BY SPEAKER
3/14 SIGNED BY PRESIDENT
3/14 TRANSMITTED TO GOVERNOR
3/17 SIGNED BY GOVERNOR
CHAPTER NUMBER 150
EFFECTIVE DATE: 03/16/95

HB 65

INTRODUCED BY MCKEE

GENERALLY REVISE LAWS GOVERNING COMMITMENT TO RESIDENTIAL
FACILITIES FOR PERSONS WHO ARE SERIOUSLY DEVELOPMENTALLY
DISABLEDBY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN
SERVICES12/29 INTRODUCED
12/30 FISCAL NOTE REQUESTED
1/02 FIRST READING
1/02 REFERRED TO JUDICIARY
1/06 FISCAL NOTE RECEIVED
1/09 FISCAL NOTE PRINTED
1/11 REVISED FISCAL NOTE RECEIVED
1/12 REVISED FISCAL NOTE PRINTED
1/27 HEARING
2/08 COMMITTEE REPORT—BILL PASSED AS AMENDED
2/08 REREFERRED TO APPROPRIATIONS
2/14 COMMITTEE REPORT—BILL PASSED
2/16 2ND READING PASSED 97 3
2/17 3RD READING PASSED 94 42/21 TRANSMITTED TO SENATE
2/21 FIRST READING
3/15 REFERRED TO JUDICIARY
HEARING

HOUSE BILL NO. 64
INTRODUCED BY EWER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AGE IS A BONA FIDE QUALIFICATION FOR THE POSITION OF POLICE OFFICER; AMENDING SECTION 7-32-4112, MCA; AND PROVIDING IMMEDIATE EFFECTIVE DATE."

REJECTED

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-4112, MCA, is amended to read:

"7-32-4112. Qualifications of ~~police~~ police officers. The state of Montana determines is a bona fide occupational qualification for the position of police officer because of the rigorous demands of the profession and the expectation of many years of emergency service. (1) The member of the a police department on the active list of any city at the time of their appointment in part;

(1) may not be less than 18 years of age or more than 35 years of age, but this restriction not apply to any except:

(a) for a member of any police department as of July 2, 1973, to;

(b) an honorably discharged ~~persons~~ person who served 3 months or more in the armed forces of the United States in time of war, providing such time of service is not less than 3 months; or

(c) to applicants an applicant for reinstatement under 7-32-4110;

(2) A ~~police officer~~ must be a citizen of the United States; and

(3) shall meet the minimum qualifying standards for employment promulgated by the board of police control."

NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

-END-

[Tape: 1; Side: A]

HEARING ON HB 64

Opening Statement by Sponsor:

REP. DAVID EWER, HD 53, was asked to carry HB 64 by the League of Cities. They are currently experiencing a conflict between state statute and federal statute with regard to what constitutes legal criteria for hiring police officers in Montana. He presented an amendment which he said nearly reverses the original intent of the bill, but the basic intent of the bill remains the same. That intention is to be in compliance with federal law to eliminate the limitation in hiring candidates over 35 years of age. EXHIBIT 1

Proponents' Testimony:

Alec Hanson, Montana League of Cities and Towns, Montana Municipal Insurance Authority, said that they are dealing with several law suits because of the difference between state and federal laws. The intent of the bill is to remove that conflict.

Jim Oberhofer, Retired Chief of Police, Missoula, testified as to his experience of being sued and the difficulties in abiding by the state law which made him guilty of the federal law. He said that the physical qualifications and tests will remain unchanged by this bill.

Opponents' Testimony:

None

Questions From Committee Members and Responses:

REP. BILL TASH asked if Mr. Hanson was in favor of the amendments.

Mr. Hanson said they were acceptable.

REP. DUANE GRIMES asked if there was any need to have the following subparagraphs when the amendment strikes the words, "or more than 35 years of age".

REP. EWER said he agreed. He had been told they needed to amend the bill further.

Closing by Sponsor:

REP. EWER closed.

Amendments to House Bill No. 64
First Reading Copy

Requested by Representative Ewer
For the House Judiciary Committee

Prepared by Eddy McClure
January 5, 1995

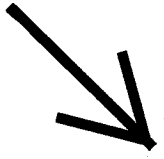
1. Title, lines 4 and 5.
Following: second "ACT"
Strike: the remainder of line 4 through "POSITION" on line 5
Insert: "REVISING THE QUALIFICATIONS"
Following: "POLICE"
Strike: "OFFICER"
Insert: "OFFICERS TO COMPLY WITH FEDERAL LAW"
2. Page 1, lines 11 through 13.
Following: "officers." on line 11
Strike: the remainder of line 11 through "service." on line 13
3. Page 1, line 16.
Following: first "age"
Strike: "or more than 35 years of age"

HEARING ON HB 64

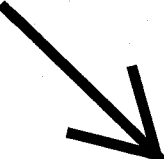
Opening Statement by Sponsor:

SENATOR AL BISHOP, representing the heart of Billings, opened HB 64 for REPRESENTATIVE DAVID EWER, House District 53, Helena, who was testifying on another hearing. He said the bill would amend the qualifications for police officers. They may not be less than 18 years of age, a citizen of the United States and shall meet the minimum qualifying standards for employment promulgated by the Board of Crime Control.

Proponents' Testimony:



Alec Hansen, representing the League of Cities and Town, said their organization had asked REPRESENTATIVE EWER to present the bill for a simple reason. The age requirement in the existing statute is causing trouble. If they follow the statute, the cities and towns are open to a lawsuit. They have several lawsuits now resulting from age discrimination. He said it was completely illogical to sue a city or town because they are following statute. The law should be changed instead. The age requirement needs to be removed, he said. He said a parallel federal statute was allowed to expire, causing problems with this state law.



Jim Oberhofer, representing himself and the Montana Peace Officers Standards of Training. He said he was one of the individuals involved in a current lawsuit. As a past chief of police, he had adhered to a state law at a 35-year age limit. He had a person who called and asked what to do with the application when he turned 36. They did not accept it and he was found guilty of violation of the state human rights law for an age discrimination. Two other cities are under that same suit. However, if he had decided the other way, he would have been guilty of violating state law of hiring at a 35-year age limit. Either way, he was in trouble. He asked for the change in the law. The sheriffs and peace officers have not had to abide by this limit, he said.

W. James Kembel, representing the City of Billings, said they would like to be recorded as being in support of the bill.

Opponents' Testimony:

None.

Questions From Committee Members and Responses:

SENATOR LINDA NELSON asked Mr. Kiser what the minimum qualifying standards were. Mr. Kiser stated an applicant would have to be

18 years of age, a citizen of the United States, a high school or equivalent education requirement, and not be convicted of a felony. SENATOR LORENTS GROSFIELD asked why someone like Jim Oberhofer would be taken to task rather than just going after the Constitutionality of the statute. Ann McIntyre, Administrator, State Human Rights Commission, answered the question. She said that someone who felt that the city or town was in violation of the discrimination laws filed a complaint with the commission and sought adjudication. That is the form the legislature had established, she said. She said it was a choice of form with the filing individual. The law favors a statutory remedy over a Constitutional one. SENATOR RIC HOLDEN said he felt the 35 age limit had to do with fitness. What would they do to ensure that the public gets physically fit police officers? Mr. Oberhofer said it would fall upon the jurisdiction that is hiring. There are standards set by the academy called the "Cooper's Test," currently being enforced. He said he hoped they did not get sued over the physical requirements.

Closing by Sponsor:

The hearing was closed for the sponsor, who was absent.

EXECUTIVE ACTION ON HB 64

Motion/Vote: SENATOR GROSFIELD MOVED THAT HB 64 BE CONCURRED IN. The MOTION CARRIED UNANIMOUSLY by an oral vote. SENATOR GROSFIELD agreed to carry the bill.

EXECUTIVE ACTION ON HB 457

Discussion: SENATOR HALLIGAN explained that the minors-in-possession statute which deals with alcohol, is codified in the criminal law section, Title 45, Chapter 5. He, Valencia Lane and Greg Petesch felt it should be codified in that section and not in the tobacco section, although it should refer to that section for definitions. Another question he had was about community service, which must be performed in 6 months or the court loses jurisdiction. There was no limitation over what length of time, which he said was fine until someone challenged it. Valencia Lane explained the amendments, as shown in (EXHIBIT 11).

Motion/Vote: SENATOR HALLIGAN MOVED THAT THE AMENDMENT BE ADOPTED. The MOTION CARRIED UNANIMOUSLY on an oral vote.

Discussion: SENATOR HOLDEN asked if they moved it into the juvenile codes? SENATOR HALLIGAN said they put it into the regular criminal code where all the rest of the crimes are. Without it, it would put it under Title 16 which would not make any sense.

HOUSE BILL NO. 64

INTRODUCED BY EWER

A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING THAT AGE IS A BONA FIDE QUALIFICATION FOR THE POSITION OF REVISING THE QUALIFICATIONS FOR POLICE OFFICER OFFICERS; AMENDING SECTION 7-32-4112, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 7-32-4112, MCA, is amended to read:

~~"7-32-4112. Qualifications of policemen police officers. The state of Montana determines that age is a bona fide occupational qualification for the position of police officer because of the rigorous physical demands of the profession and the expectation of many years of emergency service. (1) The member of the a police department on the active list of any city at the time of their appointment under part;~~

~~(1) may not be less than 18 years of age or more than 35 years of age, but this restriction does not apply to any except:~~

~~(a) for a member of any police department as of July 2, 1973, to;~~

~~(b) an honorably discharged persons person who served 3 months or more in the armed forces of the United States in time of war, providing such time of service is not less than 3 months; or~~

~~(c) to applicants an applicant for reinstatement under 7-32-4110.~~

~~(2) A police officer must be a citizen of the United States; and~~

~~(3) shall meet the minimum qualifying standards for employment promulgated by the board of control."~~

NEW SECTION. Section 2. Effective date. (This act) is effective on passage and approval.

-END-

Affidavit of Brett M. Waters

State of Montana)
) ss.
 County of Gallatin)

A. Identification

1. My name is Brett M. Waters. I am the Chief of Central Valley Fire District ("CVFD"), a rural fire district department. CVFD serves the City of Belgrade, Montana, the communities of Valley Center, River Rock, North Four Corners, Dry Creek, all located within Gallatin County, Montana, as well as other unincorporated areas of Gallatin County. The main fire station and administrative offices of CVFD are located in Belgrade at 205 E. Main Street.

2. CVFD is governed by an elected Board of Trustees. The Board of Trustees is charged under section 7-33-2105(1)(b), M.C.A., with ensuring that the citizens of CVFD are provided with adequate and standard fire and emergency services. Members of the Board serve without compensation for three year terms.

3. I began my relationship with CVFD in 1994 when I was appointed by the Trustees of CVFD as Assistant Fire Chief/Fire Marshall, and was appointed the Fire Chief/Fire Marshall in 1995.

4. I have over 30 years of progressive Fire/EMS experience in combination and volunteer Fire/Ambulance departments in Montana, including 16 years with CVFD.

5. During my term with CVFD, I have worked out a long-term service agreement with the City of Belgrade to provide Fire/Rescue services, improved training and operational standards with the second busiest airport in Montana in Belgrade, expanded CVFD's operational capability on wildland fires, designed and built many

pieces of fire apparatus for a full-service fire/rescue department, expanded and improved the fire prevention division, designed and worked on the opening of two additional fire stations, added both volunteer and career staff to continue to provide the best service possible to the customers of the area, and improved relations with all the fire departments in Gallatin County and many in the western US.

6. CVFD is the largest rural fire district department in Gallatin County, operating out of 4 stations, within approximately 250 square miles and serving a population of approximately 24,000. CVFD serves one of the most rapidly growing population areas in Gallatin County and the State of Montana.

7. CVFD is located in the central valley of Gallatin County, 8 miles from the County seat in Bozeman. In addition, CVFD serves the balance of Gallatin County in areas where no other fire protection for wildland fires is available.

8. Land use in CVFD is very diverse, including agricultural, industrial, large residential subdivisions and commercial properties. These diversities also exist in the City of Belgrade (population 7400).

9. Our service area includes the City of Belgrade, Dry Creek Road to Menard, Jackrabbit Lane to Four Corners, Highway 205 from Central Park to North 7th Avenue at the North Boundary of Bozeman. Our service area also includes Amsterdam Road to Linney Road, Sypes Canyon, Walker Road to Springhill Community Road.

10. These areas also include Interstate 90, which runs directly through the middle of the District. This means CVFD provides fire and emergency services to seventeen miles of highly traveled interstate commerce on the highway and the railway lines that run roughly parallel to it.

11. CVFD, which is also operates the Belgrade City Fire Department, is a full service fire department providing fire suppression, emergency medical response, rescue, hazardous materials response, public education, code enforcement, inspections, and other services as the public may need. CVFD operates the Belgrade City Fire Department pursuant to an intergovernmental agreement between it and the City.

12. CVFD employs 10 full time, paid administrative and firefighting staff to support at least 45 volunteer firefighters. CVFD operates out of four Fire Stations,

- Station 1 Belgrade Station 205 E Main Street
- Station 2 Springhill Station 3650 Springhill Road
- Station 3 Four Corners Station 75-77 Spanish Peak Drive
- Station 4 Reese Creek Station 13500 Springhill Road

13. The minimum requirements for firefighter in CVFD, both volunteer and full time, paid, are –

- Be at least 18 years of age.
- High School Diploma or equivalent.
- Reside within CVFD or close enough to its boundaries to respond to emergency calls within a reasonable time.
- Must have a valid Drivers License.
- Satisfactorily complete the Assessment Center process which spans approximately one year. An application is required, an interview is conducted, background checks are done, a physical ability assessment check is performed, a medical physical exam is

administered, a probationary period, and a training period must be completed. Volunteer and full time firefighters are on provisional status for a full year. Both volunteer and full time firefighters are held to very high standards. These standards meet or exceed those set by many Montana municipal fire departments.

- Satisfactorily complete the State of Montana Firefighter One Certification, the Basic Training Firefighting Course, and the Montana EMT-Basic Course. This is not prerequisite to being appointed by the Board of Trustees in the first instance. Both courses are provided by Central Valley Fire upon appointment by the Board, but must be completed satisfactorily during the firefighter's provisional one year status. These courses are substantially the same as municipal fire departments throughout the State of Montana.
- Agree to attend a minimum of 30 hours of in-service fire and a minimum of 30 hours of in-service medical training each year. Both Fire training and EMS training are provided weekly, usually three to five nights per week.
- Agree to keep Montana EMT-Basic certification current.
- Agree to fulfill the job requirements of their firefighter's job description.
- Agree to abide by all other policies, rules and regulations, and SOP's as set forth by the CVFD Board of Trustees.

14. The physical ability assessment of all firefighters, whether volunteer, part

time paid, or full time paid, includes:

- Preliminary Screening: 35' Ladder Climb
- SCBA Reduced Visibility Search
- Physical Test Station: 6 minutes 30 seconds to complete. This is substantially similar to and/or the same as, what most municipal fire departments in Montana require. This parallels what most municipal fire departments use: the CPAT – Candidate Physical Ability Test. This means CVFD firefighters, whether volunteer or paid, meet physical standards that are substantially the same or greater than most municipal fire departments in Montana.
- Extension Ladder Pull
- Hydrant Rotation
- Hose Pull
- Hose Carry
- Ladder Move
- Attic Crawl
- Manikin Drag

15. The basic training for all new recruits, including volunteers and full paid firefighters, is designed to give the new recruit the information and skills to effectively function as a Structural and Wildland Firefighter. The Basic Training incorporates the fundamentals of the Montana Firefighter 1 standards in use uniformly throughout Montana, and the IFSTA Essentials Manual, into a comprehensive CVFD-based program. At the completion of the Basic Training, recruits are assigned to a Company

and an Officer for response. Again, this is similar to and/or the same as, what municipal fire departments throughout Montana use.

B. Physical examination

16. All firefighters, volunteer, part time paid, and full time paid, must successfully complete an initial medical examination which is done as part of the original assessment process and thereafter each year so long the firefighter is associated with CVFD either as a volunteer or full time paid firefighter.

17. These physical exams are conducted by a medical doctor pursuant to the consensus standard used in the United States. This is the NFPA 1582. The NFPA medical standard is the recognized ANSI standard for firefighters around the country. The medical standards used by CVFD also comply with the requirements set by the Occupational Safety And Health Administration set forth in 29 CFR §§ 1910.120, 1910.134, and 1910.156.

18. These physical examination requirements are applicable to all firefighters in CVFD without regard to age. Firefighters under age 35, and firefighters over age 34 must pass these examinations upon initial appointment and annually thereafter.

19. To the best of my information, knowledge, and belief, the physical examination requirements of CVFD are the same or substantially the same as those as established, maintained, and used by fire departments in class 1, class 2, and class 3 municipal fire departments throughout Montana.

C. Current full paid firefighters

20. CVFD has nine full time, paid firefighters who would qualify for membership in FURS but for their age when they became full time, paid fire fighters, if